

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

QWENDOLYN MILLARD,)	
)	
Plaintiff,)	
)	
v.)	No. 1:18-cv-01116-WTL-TAB
)	
ROLLS-ROYCE NORTH AMERICA, INC.,)	
)	
Defendant.)	

ORDER ON PLAINTIFF’S MOTION TO AMEND COMPLAINT

At issue is Plaintiff’s motion for leave to amend her first amended complaint.¹ [Filing No. 19.] Plaintiff seeks to dismiss Counts III and IV from her amended complaint, and to add new Counts IV and V. Defendant does not oppose dropping the two counts or adding the new Count V. Therefore, the Court grants Plaintiff’s motion to amend to the extent it dismisses Counts III and IV and adds Count V. [Filing No. 19.]

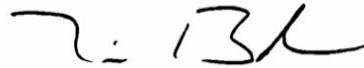
However, the Court denies Plaintiff’s motion to amend to add the new Count IV. Defendant objects to the new count, arguing that this claim is time barred. Defendant points out that Plaintiff seeks to add this claim more than 200 days after the EEOC issued Plaintiff a notice of her right to sue. Following an EEOC right to sue letter, plaintiffs have 90 days to file a claim. 42 U.S.C. § 2000e-5(f)(1). The Seventh Circuit hold plaintiffs to this limit, absent special circumstances giving rise to waiver, estoppel, or equitable tolling. *See, e.g. Reschny v. Elk Grove Plating Co.*, 414 F.3d 821 (7th Cir. 2005) (upholding dismissal for failure to file complaint within 90 days even though the plaintiff had not received the letter following a change

¹ The Court notes that Plaintiff’s counsel failed to sign this motion. Counsel signed the certificate of service, but failed to sign the motion itself.

in her address because the plaintiff had not notified the EEOC of the change); *Anooya v. Hilton Hotels Corp.*, 733 F.2d 48, 49 (7th Cir. 1984) (upholding dismissal of a complaint filed 91 days after receipt of the right to sue letter). Plaintiff failed to reply to Defendant's objection that this new claim is untimely, suggesting Plaintiff concedes the claim is improper. In any event, the Court finds Defendant's objection well taken.

For these reasons, the Court grants in part and denies in part Plaintiff's motion to amend her amended complaint. [Filing No. 19.] Plaintiff has 14 days from the date of this order to file a (signed) amended complaint consistent with this order.

Date: 9/24/2018

A handwritten signature in black ink, appearing to read 'T. Baker', written over a horizontal line.

Tim A. Baker
United States Magistrate Judge
Southern District of Indiana

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